

# Congress of the United States

## Washington, DC 20515

June 25, 2020

Secretary Betsy DeVos  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202

Dear Secretary DeVos,

Congress passed the H.R. 748, *Coronavirus Aid, Relief, and Economic Security (CARES) Act* (P.L. 116-136) with strong bipartisan support, and it was quickly signed into law on March 27, 2020. The *CARES Act* establishes the Elementary and Secondary School Emergency Relief (ESSER) and the Governor's Emergency Education Relief (GEER) funds to help schools meet the increased costs of school closures and remote learning, disproportionately borne by low-income, rural, and isolated communities. We request the U.S. Department of Education (ED) revise the guidance titled "Providing Equitable Services to Students and Teachers in Non-Public Schools under the *CARES Act* Programs," which runs counter to the intent of Congress.

The *CARES Act* clearly commits relief funding for the most vulnerable student populations, a precedent set in decades of federal education funding. The statute requires local education agencies (LEAs) receiving ESSER or GEER funds to "provide equitable services in the same manner as provided under section 1117 of the ESEA of 1965 to students and teachers in non-public schools," and section 1117 establishes that the allocation of federal funds to serve private school children is based on the number of low-income students in those private schools. In short, LEAs must allocate ESSER and GEER funds to private schools based on low-income student enrollment, just as is done for public schools.

ED guidance on allocation of ESSER and GEER funds to non-public schools counts all private school students, not just low-income students. As a result, LEAs would need to dedicate more relief funding to private schools, relative to the amount if section 1117 is followed as is statutorily required under the *CARES Act*, leaving less for public schools, which often serve proportionally more low-income students. Doing so denies public schools critical relief at a moment when state and local governments face steep declines in revenues on top of growing costs for coronavirus relief. This budget crunch faced by cities and towns across America threatens to crowd out funding for other services, including our public schools.

Thank you for your attention to this matter. We stand ready to provide additional information to help correct ED guidance on ESSER and GEER allocations for non-public schools to reflect the intention of Congress in passing the *CARES Act*.

Sincerely,



SETH MOULTON  
*Member of Congress*



PETE STAUBER  
*Member of Congress*

BENNIE G. THOMPSON  
*Member of Congress*

SUSAN WILD  
*Member of Congress*

BRIAN FITZPATRICK  
*Member of Congress*

BRUCE WESTERMAN  
*Member of Congress*

JAHANA HAYES  
*Member of Congress*

DENNY HECK  
*Member of Congress*

JIM COOPER  
*Member of Congress*

BILL FOSTER  
*Member of Congress*

RUBEN GALLEGU  
*Member of Congress*

JIMMY PANETTA  
*Member of Congress*

ADAM SMITH  
*Member of Congress*

LORI TRAHAN  
*Member of Congress*

PETER A. DEFAZIO  
*Member of Congress*

LAUREN UNDERWOOD  
*Member of Congress*

THOMAS R. SUOZZI  
*Member of Congress*

ELAINE G. LURIA  
*Member of Congress*

JULIA BROWNLEY  
*Member of Congress*

CHRISSY HOULAHAN  
*Member of Congress*

FRANK PALLONE, JR.  
*Member of Congress*

MARC VEASEY  
*Member of Congress*

NYDIA M. VELÁZQUEZ  
*Member of Congress*

JOHN KATKO  
*Member of Congress*

SYLVIA R. GARCIA  
*Member of Congress*

PETER WELCH  
*Member of Congress*

SANFORD D. BISHOP, JR.  
*Member of Congress*

MADELEINE DEAN  
*Member of Congress*

DEBBIE DINGELL  
*Member of Congress*

DAVID TRONE  
*Member of Congress*

TERRI A. SEWELL  
*Member of Congress*

JERROLD NADLER  
*Member of Congress*

BARBARA LEE  
*Member of Congress*

JOAQUIN CASTRO  
*Member of Congress*

ANGIE CRAIG  
*Member of Congress*

ANDRÉ CARSON  
*Member of Congress*

JASON CROW  
*Member of Congress*

KATHY CASTOR  
*Member of Congress*

CINDY AXNE  
*Member of Congress*

ABBY FINKENAUER  
*Member of Congress*

ELISSA SLOTKIN  
*Member of Congress*

DINA TITUS  
*Member of Congress*

JOHN GARAMENDI  
*Member of Congress*

CONOR LAMB  
*Member of Congress*

DEAN PHILLIPS  
*Member of Congress*

DEB HAALAND  
*Member of Congress*

JAN SCHAKOWSKY  
*Member of Congress*

COLLIN C. PETERSON  
*Member of Congress*

SALUD CARBAJAL  
*Member of Congress*

KATIE PORTER  
*Member of Congress*

MARY GAY SCANLON  
*Member of Congress*

STEVE COHEN  
*Member of Congress*

GRACE F. NAPOLITANO  
*Member of Congress*

JOYCE BEATTY  
*Member of Congress*

JESÚS G. "CHUY" GARCÍA  
*Member of Congress*

SEAN PATRICK MALONEY  
*Member of Congress*

MARK TAKANO  
*Member of Congress*

SUZANNE BONAMICI  
*Member of Congress*

JUAN VARGAS  
*Member of Congress*

PRAMILA JAYAPAL  
*Member of Congress*

MARK POCAN  
*Member of Congress*

PAUL D. TONKO  
*Member of Congress*

JOHN B. LARSON  
*Member of Congress*

MIKE BOST  
*Member of Congress*

ANN MCLANE KUSTER  
*Member of Congress*

DAVE LOEBSACK  
*Member of Congress*

ELEANOR HOLMES NORTON  
*Member of Congress*

DONNA E. SHALALA  
*Member of Congress*

ADRIANO ESPAILLAT  
*Member of Congress*

FREDERICA S. WILSON  
*Member of Congress*

DONALD NORCROSS  
*Member of Congress*

LINDA T. SÁNCHEZ  
*Member of Congress*

JARED HUFFMAN  
*Member of Congress*

DAVID B. MCKINLEY  
*Member of Congress*